

COLLECTION OF OVERPAYMENTS IN THE ~~AID TO FAMILIES WITH  
DEPENDENT CHILDREN (AFDC) AND REFUGEE OTHER ASSISTANCE~~  
PROGRAMS

## CHAPTER 330.

COLLECTION OF OVERPAYMENTS IN THE ~~AID TO FAMILIES WITH  
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22 VAC 40-330-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Former recipient" means an individual who is not presently receiving an assistance payment through the ~~Aid to Families with Dependent Children (AFDC) Program or~~ Refugee Other Assistance program.

"Overpayment" means an assistance payment made by a local department of social services which is incorrect because: (i) the assistance unit does not meet eligibility requirements and is ineligible for an assistance payment in a given month, or (ii) the payment is greater than the amount to which the assistance unit is entitled.

"Reasonable effort" means attempting to notify the former recipient of the amount of the overpayment, the reason the overpayment occurred and that repayment is required.

"Recoupment" means withholding all or part of an assistance payment to a current assistance unit for the purpose of repaying a prior overpayment.

"Recovery" means a voluntary or court ordered arrangement with a current or former recipient for repayment of all or a portion of an overpayment.

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22 VAC 40-330-20. Collection process.

A local department of social services is to promptly recoup or recover any overpayment from a current recipient of ~~Aid to Families with Dependent Children (AFDC)~~ or Refugee Other Assistance, including overpayments which are the result of assistance paid pending an appeal hearing decision in which the adverse action taken by the agency is upheld by the hearing authority. All overpayment which were made to former recipients which are less than \$35 shall be waived after the local agency has notified the former recipient, in writing, that an overpayment has occurred which must be repaid and the former recipient fails to respond to the initial request for repayment. No further action to collect the overpayment is to be taken. In cases where an overpayment to a former recipient is \$35, or more, the agency may elect to forego collection activity if, after reasonable efforts, it is determined that further action to collect the overpayment would not be cost-effective. To ensure reasonable efforts have been made to collect the overpayment, the agency must: (i) have documentary evidence that they cannot locate the former recipient, or (ii) determine that the former recipient has no means by which to repay the overpayment, or (iii) secure a written statement from the former recipient that they refuse to repay the overpayment. The agency must maintain information for three years concerning former recipients who received an overpayment, including overpayments which are less than \$35, and must initiate recoupment procedures should one or more of those individuals again be found eligible to receive assistance.

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22 VAC 40-330-30. Fraud.

In instances where the overpayment is based on alleged fraud, the case shall be referred to the attorney for the Commonwealth for review. No collection action is to be taken pending a determination by the attorney for the Commonwealth for review. In situations involving fraud, the agency shall not forego collection of an overpayment to a former recipient which is less than \$35, or more, as set forth in 22 VAC 40-330-20.

I certify that this regulation is full, true, and correctly dated.

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Debra Price Andrews, Chair  
State Board of Social Services  
March 10, 2004